

ORIGINAL

FILED

March 18 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE
STATE OF MONTANA

Supreme Court Cause No. _____

Quentin M. Rhoades
Nathan G. Wagner
SULLIVAN, TABARACCI & RHOADES, P.C.
1821 South Avenue West, Third Fl.
Missoula, Montana 59801
Telephone: (406) 721-9700
Telefax: (406) 721-5838
For Appellants

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

TIMOTHY MATHENY and CRISTINE MATHENY,

Plaintiffs/Appellants,

v.

JET BOATS OF MONTANA, INC. and WILLIAM RUSSELL,

Defendants/Appellees.

NOTICE OF APPEAL

On Appeal from the Montana Fourth Judicial District Court
Missoula County, Cause No. DV-10-65
Before Hon. Ed McLean

NOTICE is given that TIMOTHY MATHENY and CRISTINE MATHENY, the Appellants above-named and who are the Plaintiffs in the cause of action filed in the Fourth Judicial District Court, in and for the County of Missoula, as Cause No. DV-10-65, hereby appeal to the Supreme Court of the State of Montana from the order entered in such action on the 17th day of March, 2010, a copy of the District Court Order is attached as Exhibit A.

THE APPELLANTS FURTHER CERTIFY:

1. That this appeal is not subject to the mediation process required by MONT. R. APP. P. 7. If subject to mediation, the money judgment being sought is not less than \$5,000.00;
2. That this appeal is not an appeal from an order certified as final under MONT. R. CIV. P. 54(b);
3. That the notice required by MONT. R. APP. P. 27 has been or will be given, within 11 days of the date hereof, to the Supreme Court and to the Montana Attorney General with respect to a challenge to the constitutionality of any act of the Montana Legislature;
4. That all available transcripts of the proceedings in this

cause have been ordered from the court reporter contemporaneously with the filing of this notice of appeal. If all available transcripts have not been ordered, that Appellants have complied with the provisions of MONT. R. APP. P. 8(3) contemporaneously with the filing of this notice of appeal; and

5. That included herewith per MONT. CODE ANN. § 3-2-402, is the filing fee in the amount of \$100.00.

DATED this 17th day of March, 2010.

Respectfully Submitted,
SULLIVAN, TABARACCI & RHOADES, P.C.

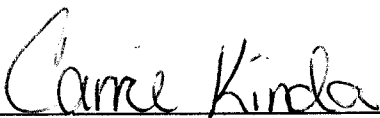
By: *Quentin M. Rhoades*
QWR Quentin M. Rhoades
Nathan G. Wagner
For Appellants

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of March, 2010, I filed a true and correct copy of the foregoing NOTICE OF APPEAL with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing NOTICE OF APPEAL upon the Clerk of the District Court, each attorney of record, and each party not represented by an attorney in the above-referenced District Court action as follows:

Missoula County District Court
Fourth Judicial District
200 West Broadway
Missoula, Montana 59801

Bryan Charles Tipp
Eric D. Mills
TIPP & BULEY, P.C.
Attorneys At Law
2200 Brooks Street
PO Box 3778
Missoula, Montana 59806-3778



Legal Assistant to Nathan G. Wagner